

COPY

June 12, 1956

NEW HAMPSHIRE RETIREMENT BOARD

SEP 22 1960

CONCORD, N.H.

Robert J. Jewell, Secretary
State Employees Retirement System
State House Annex
Concord, New Hampshire

Dear Mr. Jewell:

This is in response to your letter of May 25, 1956, requesting our opinion as to the current status of Mr. Theron Yost. It appears that Mr. Yost will retire as a teacher this month and will receive income from the Teachers' Retirement System. Next year he will be employed by the Union School District of Keene as Agent of Buildings. He is currently employed as a teacher by the same District. You inquire as to whether Mr. Yost, upon his assumption of duties as Agent of Buildings, will be eligible for membership in the Employees Retirement System. You also inquire as to whether it is permissible for him to retire under the Teachers' Retirement System and at the same time be paid as a full-time employee of the same District for services performed as Agent of Buildings.

Mr. Yost will not be eligible for membership in the State Employees Retirement System. RSA 100:18 provides that the teachers'

"retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provision of law which provides wholly or in part at the expense of the state or of any subdivision thereof, for retirement benefits for employees of the state, their widows, or other dependents."

Since Mr. Yost will be receiving benefits from the Teachers' Retirement System, he will be ineligible for membership in the State Employees Retirement System.

There is nothing in the Teachers' Retirement System which prevents a retired teacher from accepting employment in another capacity from the same District whether he was employed prior to retirement. "Service" within the meaning of the Teachers' Retirement

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System means "service as a teacher." RSA 192:1-VIII. When a teacher retires in accordance with the provisions of RSA 192:5, he is entitled to a service retirement allowance. There is nothing in the Teachers' Retirement law which prevents him from performing other services for the same employer after retirement.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/sml